

REMARKS

Claims 1-9 have been examined. With this amendment, Applicant adds claims 10-12.

Claims 1-12 are all the claims pending in the application.

1. Formalities

Applicant thanks the Examiner for acknowledging the claim for foreign priority and for confirming that the certified copy of the priority document has been received.

Applicant thanks the Examiner for initialing the references listed on form PTO-1449 submitted with the Information Disclosure Statements filed on February 14, 2001 and September 3, 2003. Applicant requests that the Examiner consider the references listed in the IDS filed on April 16, 2004 and return an initialed copy of form PTO-1449 in the next Office Action.

2. Claim Rejections Under 35 U.S.C. § 112

The Examiner has rejected claims 1-3 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant submits that the modifications to claims 1-3 obviate the rejection.

3. Claim Rejections Under 35 U.S.C. § 101

The Examiner has rejected claims 1-3 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Specifically, the Examiner contends that the claimed combinations do not fall within the technological arts. Applicant traverses the rejection.

The Examiner concedes that the claimed combination produces a useful and tangible result by producing a commodity order transaction by transmitting electronic documents.

However, the Examiner contends that this transaction does not fall within the technological arts because it can be accomplished with paper and pencil or in the mind of the user.

Applicant submits that the claimed “electronic documents” cannot be transmitted using the mind or a regular pencil and paper, therefore, the method steps recited in claims 1-3 do fall within the technological arts. Specifically, the claimed method applies to any medium capable of transmitting and receiving electronic documents.

However, to speed up prosecution, Applicant has amended claims 1-3 to recite devices for transmitting and receiving electronic documents.

4. Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 1, 4 and 7 under 35 U.S.C. § 102(b) as being anticipated by Sakai et al. (US 5,630,071) [“Sakai”]. For at least the following reasons, Applicant traverses the rejection.

Claim 1 recites a commodity order issuing and accepting method that has a step of “inputting said order issuer's payment date into said second input field on said order issuing device; and transmitting said order issuer's payment date to said order accepting device.” The Examiner contends that Sakai discloses these features, but does not provide any specifics as to which elements of Sakai allegedly correspond to the claimed combination.

Applicant submits that, at most, the cited sections and figures disclose a time period for calculating points for use in providing better service to customers (see Fig. 22, col. 11, lines 34-39, and col. 13, lines 29-33). There is no disclose or suggestion in Sakai that a payment date is

an input field or that a payment date is even used in the device of Sakai. Therefore, Sakai does not disclose or even remotely suggest the claimed combination.

Because claims 4 and 7 recite features similar to claim 1, Applicant submits that these claims are patentable for at least the reasons given above for claim 1.

5. Claim Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 2, 3, 5, 6, 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Sakai in view of Yamamoto et al. (US 6,168,076) [“Yamamoto”]. For at least the following reasons, Applicant traverses the rejection.

Because claims 2, 3, 5, 6, 8 and 9 depend on one of the independent claims 1, 4 and 7, and Yamamoto does not cure the deficient teachings of Sakai with respect to the independent claims, Applicant submits that these claims are patentable at least by virtue of their respective dependencies.

In addition, Claim 2 recites a commodity order issuing and accepting method that has a step of “calculating a reduced price corresponding to ...said order issuer's payment date.”

The Examiner concedes that Sakai does not disclose the calculation of a reduced price, but attempts to cure this deficiency by applying Yamamoto. However, Yamamoto discloses the calculation of a reduced price is based on set-menu items (see Abstract). There is no disclosure or suggestion in Yamamoto that a reduced price may be calculated based on a payment date as set forth in the claimed combination.

Even if, for the sake of argument alone, one skilled in the art would have combined the references as suggested by the Examiner, the claimed payment date would still be missing.

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Therefore, Applicant submits that Sakai and Yamamoto (alone or in combination) do not disclose or suggest the claimed combination.

Because claims 5 and 8 recite features similar to claim 2, Applicant submits that these claims are patentable for at least the additional reason given above for claim 2.

6. New Claims


With this amendment, Applicant adds claims 10-12. Applicant submits that these claims are patentable at least by virtue of the features recited therein.

7. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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